

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

M E M O R A N D U M

Honorable Anthony W. Ishii
Senior United States District Judge
Fresno, California

RE: JESUS ROMAN
Docket Number: 1: 98CR05270-001 AWI
DISMISSAL OF EXPIRED SUPERVISED
RELEASE WARRANT

Your Honor:

This memorandum is to request the Court vacate and recall the supervised release warrant that was issued for the defendant's arrest.

The Ninth Circuit Court of Appeals' decision in U.S. v. Vargas-Amaya, 389 F.3d 901 (2004) ruled that a district court's jurisdiction to revoke supervision beyond the term of supervision ordered, is extended if the warrant was issued "upon probable cause, *supported by Oath or Affirmation*," as required by the Fourth Amendment. On violation Petitions issued by this office prior to 2004, there was no oath or affirmation on any Petitions.

On October 31, 1995, the defendant appeared in the Southern District of New York (Docket Number 7:94CR0856-001 CLB), for sentencing after a jury verdict on the following offenses: 18 USC 2241(a)(1), Aggravated Sexual Abuse; and 18 USC 2242, Sexual Assault. The defendant was committed to the Bureau of Prisons for 42 months, was ordered to serve 3 years supervised release, and pay a \$100 special assessment. He was also ordered to participate in mental health counseling as a special condition of supervision. Upon release from imprisonment, the defendant was supervised by the Modesto probation office in the Eastern District of California.

On July 29, 1998, jurisdiction was transferred to the Eastern District of California. On August 19, 1998, Your Honor issued a warrant for the defendant's arrest based on a the Violation Petition dated August 13, 1998. The Petition alleges a violation of the conditions

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of supervised release by the Failure to Obey All Laws. As stated above, there was no *Oath or Affirmation* by the probation officer in the Petition.

Based on the decision in U.S. v. Vargas-Amaya, it is recommended the Court recall the warrant and dismiss the case.

Respectfully submitted,

/s/ Rick C. Louviere

Rick C. Louviere
Assistant Deputy Chief Probation Officer

Dated: May 6, 2013
Fresno, California
RCL

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THE COURT ORDERS

(X) Vacate the Petition for probation violation and recall the warrant issued, pursuant to U.S. Vargas-Amaya.

cc: United States Attorney's Office
United States District Court Clerk's Office
United States Marshals Service

IT IS SO ORDERED.

Dated: May 9, 2013



SENIOR DISTRICT JUDGE